



LANDMARK SUPREME COURT CASES AND THE CONSTITUTION

ENGEL V. VITALE (1962)

MONDAY, FEBRUARY 26, 2007

OVERVIEW

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The saying goes “as long as there are tests, there will be prayer in schools.” And individual students can indeed pray for straight A’s or for other reasons. The Supreme Court decision in *Engel v. Vitale* (1962) held that recitation of prayers in public schools, however, violated the First Amendment’s Establishment Clause. The ruling is hailed by some as a victory for religious freedom, while criticized by others as striking a blow to the nation’s religious heritage.

RESOURCES

- <http://www.citizenbee.org/user/StudentGuide.aspx?id=676>
- http://www.oyez.org/cases/case/?case=1960-1969/1961/1961_468
- <http://www.law.umkc.edu/faculty/projects/ftrials/conlaw/engel.html>

ACTIVITY

"Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country." If a public school student were to say this non-denominational prayer quietly to herself, there would be no constitutional conflict. If a group of students were to assemble before school and say this prayer aloud, there would be no constitutional conflict. But what if all public schools in a state began the day with a formal recitation of this prayer? Known as the “Regents Prayer” this invocation was used to open the school day in New York public schools for much of our nation’s history. Students who did not wish to say it could choose to remain silent or stand outside the room, and face no penalty. This practice was challenged in the landmark Supreme Court case *Engel v. Vitale*. (1962).

The First Amendment says “Congress shall make no law respecting an establishment of religion.” This was originally added to the Constitution to keep the federal government from establishing a national religion. Today, the amendment is often used to keep religion out of government spaces such as public schools, libraries, and courtrooms. Challenges to religion in schools grew in the twentieth century for two reasons: The growth of public schools in the twentieth century, combined with the Supreme Court’s use of the Fourteenth Amendment to apply First Amendment limitations to the states. In *Engel v. Vitale*, the Court ruled that for public schools to hold official recitation of prayers violated the Establishment Clause.

Justice Hugo Black wrote: *“We think that by using its public school system to encourage recitation of the Regents’ prayer, the State of New York has adopted a practice wholly inconsistent with the Establishment Clause...It is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government.”* Some people wrongly believe this decision outlawed all prayer in public schools. It did not. The ruling did prohibit schools from writing or choosing a specific prayer and requiring all students to say it.

QUESTIONS

1. What was the “Regents’ Prayer”?
2. What was the original reason for adding the Establishment Clause to the Constitution?
3. Why did challenges to religion in schools grow during the twentieth century?
4. How did the Supreme Court rule in *Engel v. Vitale* (1962), and why?
5. In his dissent, Justice Potter Stewart wrote, “With all respect, I think the Court has misapplied a great constitutional principle. I cannot see how an ‘official religion’ is established by letting those who want to say a prayer say it. On the contrary, I think that to deny the wish of these school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation.”



Landmark Supreme Court Cases and the Constitution

Gideon v. Wainwright (1963)

Monday, March 24, 2008

OVERVIEW

This month we spotlight the landmark criminal procedure case *Gideon v. Wainwright* (1963). The individual at the center of this case, Clarence Gideon, sent a handwritten petition to the Supreme Court challenging his conviction for breaking into a Florida pool hall. He argued that he did not have a fair trial, because he had not been given a lawyer to help him with his defense. The Court held that the Sixth Amendment's protection of the right to counsel meant that the government must provide an attorney for accused persons who cannot afford one.

RESOURCES

- <http://citizenbee.org/user/StudentGuide.aspx?id=869>
- <http://citizenbee.org/user/StudentGuide.aspx?id=869>
- http://www.oyez.org/cases/1960-1969/1962/1962_155/
- http://arcweb.archives.gov/arc/digital_detail_summary.jsp?&tn=599401&nw=y&rn=1&nh=1&ni=0&st=b&rp=details&si=0

ACTIVITY

At the time the Constitution was adopted, British courts denied lawyers to individuals charged with treason or felonies. People accused of criminal misdemeanors, however, were provided lawyers. The American colonies (and, later, the states) rejected this practice. Most of the original thirteen states allowed defendants in all cases to have lawyers. The Sixth Amendment, ratified in 1791, states, "In all criminal prosecutions, the accused shall enjoy the right to...have the Assistance of Counsel for his defence." Through the years, the Supreme Court has heard several cases about whether poor criminal defendants had a right to a lawyer at public expense, or whether the Sixth Amendment only meant that the government could not stop accused persons from hiring one.

In 1961, Clarence Earl Gideon was arrested in Florida for breaking into a Panama City pool hall with the intent to steal money from the vending machines. This was a felony. When Gideon appeared in court, his request for a court-appointed lawyer was denied. Florida law only required lawyers for defendants charged with capital offenses. Gideon had no choice but to defend himself at his trial. He was found guilty, and sentenced to five years in prison.

While in prison, Gideon made frequent use of the prison library. With the knowledge he gained there, along with the help of a fellow inmate with a legal background, he submitted a hand-written petition to the Supreme Court. In his petition, he challenged the constitutionality of his conviction, as he had not been able to have the assistance of counsel for his defense.

The Supreme Court agreed with Gideon that he had not been given a fair trial, and overturned his conviction. The Court's vote was unanimous. The Court reasoned that the right to counsel was "fundamental." The Court continued, "in our...system of justice, any person...too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him. This seems to us to be an obvious truth....[L]awyers in criminal courts are necessities, not luxuries."

QUESTIONS

1. How does the Sixth Amendment protect accused person's right to counsel?
2. What happened when Clarence Gideon requested an attorney to assist with his defense against charges of breaking into a Florida pool hall?
3. Why did Gideon challenge his conviction?
4. How did the Supreme Court rule? Do you agree with the ruling? Why or why not?
5. What, if anything, does the Court's ruling in *Gideon* reveal about the American commitment to justice and the rule of law?



LANDMARK SUPREME COURT CASES AND THE CONSTITUTION

MARBURY V. MADISON (1803)

MONDAY, NOVEMBER 24, 2008

OVERVIEW

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Many citizens take it for granted today that one power of the Supreme Court is to review the constitutionality of laws. This power, known as “judicial review,” was not firmly established until fifteen years into the Court’s existence, and was articulated by Chief Justice John Marshall in the landmark case we spotlight this month: *Marbury v. Madison* (1803). In essence, *Marbury* is the landmark case that made almost all other landmark cases possible.

RESOURCES

- <http://constitutionbee.org/user/StudentGuide.aspx?id=688>
- <http://constitutionbee.org/user/StudentGuide.aspx?id=773>
- <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=5&invol=137>
- <http://www.law.umkc.edu/faculty/projects/ftrials/conlaw/judicialrev.htm>

ACTIVITY

Marbury v. Madison (1803) is a landmark case because it was the first time that the Supreme Court declared an act of Congress (a section of the Judiciary Act of 1789) to be unconstitutional. This is an exercise of the power of judicial review—the power of the federal courts to interpret laws in light of the Constitution.

In his opinion, Chief Justice John Marshall established the Supreme Court as an equal partner in government with the executive and legislative branches. Marshall emphasized that the Constitution was the supreme law of the land. More importantly, the Supreme Court became the final authority on what the Constitution means: “It is emphatically the province and duty of the judicial department to say what the law is.”

Marshall continued, “[T]he Constitution of the United States confirms and strengthens the principle... that a law repugnant to the Constitution is void.” The Supreme Court, further, was the proper authority to decide if a law is in conflict with the Constitution. He called this responsibility “the very essence of judicial duty.”

The Supreme Court did not declare another act of Congress unconstitutional for more than fifty years, and the power of judicial review was used sparingly until the beginning of the twentieth century. Since then, as more and more state laws became subject to federal review (as a result of the Fourteenth Amendment and the incorporation of the protections of the Bill of Rights against the states), the Supreme Court has been given frequent opportunities to exercise its power of constitutional review.

COMPREHENSION AND CRITICAL THINKING QUESTIONS

1. Why is *Marbury v. Madison* (1803) a landmark case?
2. Section 2 of Article III of the Constitution begins, “The judicial power shall extend to all cases, in law and equity, arising under this Constitution...” Why do you believe John Marshall referred to this section of the Constitution in his opinion?
3. Supreme Court Chief Justice William Rehnquist called *Marbury* “the fountainhead of all of our present-day constitutional law” in a 2001 speech. What did he mean?
4. Thomas Jefferson wrote in 1820, “To consider the judges as the ultimate arbiters of all constitutional questions [is] a very dangerous doctrine indeed...our judges are as honest as other men and not more so. They have with others the same passions for party, for power, and...privilege...” What was Jefferson’s concern? Do you believe judicial review gives the Supreme Court too much power?



LANDMARK SUPREME COURT CASES AND THE CONSTITUTION

ROE V. WADE (1973)

MONDAY, MARCH 26, 2007

OVERVIEW

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This March, in commemoration of Women's History Month, we spotlight the landmark case *Roe v. Wade* (1973). In this case, the Court held that the right to privacy included the abortion decision, and that states could not ban the procedure in the first trimester. One of the Court's most controversial decisions, the ruling overturned laws banning abortion in at least thirty-one states.

RESOURCES

- <http://citizenbee.org/user/StudentGuide.aspx?id=848>
- http://www.oyez.org/cases/1970-1979/1971/1971_70_18/
- <http://www.law.cornell.edu/supct/cases/410us113.htm>

ACTIVITY

According to common law tradition carried over in the United States from England, abortion before "quickening," (or when the fetus's movements could be felt) was not a crime. In 1821, Connecticut adopted a portion of a British law and passed the first US law banning abortion after quickening. At the time of the adoption of the Fourteenth Amendment in 1868, twenty states (out of thirty-seven) restricted abortion. By the 1950s, almost every state banned all abortions except when necessary to save the woman's life.

A shift began in the 1960s. Beginning with Colorado in 1967, thirteen states opened access to abortion. Several states restricted the procedure, while thirty-one states allowed it only to save the life of the mother. A Texas woman, using the name Jane Roe, challenged her state law and her case eventually went to the Supreme Court.

The Constitution does not list a right to privacy. The Court has held, however, that Bill of Rights protections of free speech, assembly, and religious exercise (First Amendment), along with freedom from forced quartering of troops (Third), unreasonable searches and seizures (Fourth), and forced self-incrimination (Fifth) create "zones of privacy." Further, the Ninth Amendment's protection of unenumerated rights could be said to protect privacy. These "zones" are places into which the government cannot unreasonably intrude. Roe claimed that the law robbed her of her right to privacy as protected by the combination of Bill of Rights amendments, and of her liberty as protected by the Due Process Clause of the Fourteenth Amendment.

The Court agreed with Roe and held that "the right to privacy includes the abortion decision." The Court emphasized that abortion rights were not absolute. "The pregnant woman cannot be isolated in her privacy... [I]t is reasonable and appropriate for a State to decide that at some point in time another interest, that of health of the mother or that of potential human life, becomes significantly involved." States could not ban abortion during the first trimester, but as pregnancy progressed, the Court held, the state's interest in protecting life could begin to outweigh the woman's liberty. Therefore states could restrict the procedure later in pregnancy.

The decision in *Roe v. Wade* continues to be one of the most controversial the Court has ever issued. Demonstrations are frequently held on the anniversary of the decision—some in protest and some in support. In subsequent cases, the Court has upheld laws requiring waiting periods and other similar restrictions on abortion, even within the first trimester.

QUESTIONS

1. Why did Roe argue that the Texas law banning abortions was unconstitutional?
2. On what Bill of Rights protections does the Supreme Court base the right to privacy?
3. How did the Court rule?